

## SETTLEMENT AGREEMENT

### I. PARTIES

This Settlement Agreement (the "Agreement") is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Department of Labor ("DOL") and the Department of Housing and Urban Development ("HUD") (collectively the "United States"); Bradley Barber (the "Relator"), Eagle Masonry Services, Inc. (the "Defendant") (hereafter the United States, the Relator, and the Defendant shall be referred to as the "Parties"), through their authorized representatives.

### II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. At all relevant times, the Defendant was a corporation doing business in Birmingham, Alabama.

B. The Relator is an individual resident of Alabama. On June 14, 2005, Relator filed a qui tam action in the United States District Court for the Northern District of Alabama captioned U.S. ex rel. Bradley Barber v. Doster Construction Company, et al., (Case No. CV-05-P-1287-S) (hereinafter the "Civil Action"). The Relator based the Civil Action upon his alleged observations of activities at the Metropolitan Gardens Hope VI project located in Birmingham, Alabama.

C. The United States contends that the Defendant submitted or caused to be submitted claims for payment to the United States for services provided by illegal aliens or unauthorized workers.

D. The United States contends that it has certain civil claims, as specified in Paragraphs 2 and 3, below, against the Defendant for engaging in the following alleged conduct during the period from June 1, 2004 to August 31, 2006: The Defendant contracted for labor on the Metropolitan Gardens Hope VI project located in Birmingham, Alabama that the Relator alleged were illegal aliens or unauthorized workers, for which labor the Defendant submitted claims for payments. The actual status of such individuals remains in dispute. Additionally, the United States contends that the Defendant did not pay the appropriate wages as required by the Davis-Bacon Act, including overtime wages, to certain individuals. The actions in this paragraph shall hereinafter be referred to as the "Covered Conduct."

E. The Relator has also asserted certain discrimination claims against the Defendant in the Fourth Cause of Action and Fifth Cause of Action in the Complaint (the "Relator Discrimination Claims").

F. This Agreement is neither an admission of liability by the Defendant nor a concession by the United States that its claims are not well founded. The Defendant denies the allegations made against it in the Civil Action, and denies liability for the Covered Conduct. By agreeing to settle their differences as set forth in this Agreement, the Parties seek to purchase peace and to avoid the expense, delay, inconvenience and uncertainty of litigating the claims asserted by the Relator and the United States in this case.

### III. TERMS AND CONDITIONS

1. The Defendant agrees to pay the United States the sum of \$50,000 (the "Settlement Amount") as follows:

a. The Defendant will make an initial payment to the United States in the amount of \$10,000 pursuant to a promissory note (the "Note") in the form of Exhibit A that the Defendant agrees to execute contemporaneously with this Agreement.

b. Over a period of eight months, the Defendant will pay the remaining \$40,000, plus interest at seven (7) percent per annum, pursuant to the terms of the Note.

c. All payments shall be made on the due date by either a certified or cashier's check made payable to the United States Department of Justice and delivered to Lloyd C. Peebles, III, Assistant United States Attorney for the Northern District of Alabama, 1801 Fourth Avenue North, Birmingham Alabama 35203.

d. Contingent upon the United States receiving the payment described in paragraph 1.a, above, and as soon as feasible after receipt thereof, the United States agrees to pay \$9,000 to Relator by electronic funds transfer, in full and final satisfaction of any and all interest that the Relator has or may have in the claims settled by this Agreement.

2. Subject to the exceptions in Paragraph 5, below, in consideration of the obligations of the Defendant in this Agreement, conditioned upon the Defendant's full

payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release the Defendant (together with its current and former parent corporations; each of its direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners, shareholders, officers, directors, and employees, and affiliates; and the successors and assigns of any of them) from any civil or administrative monetary claim the United States has or may have for the Covered Conduct under, without limitation, the False Claims Act, 31 U.S.C. §§ 3729-3733 or the common law theories of payment by mistake, unjust enrichment, and fraud.

3. In consideration of the obligations of the Defendant in this Agreement, conditioned upon the Defendant's full payment of the amount stated in Paragraph 1(a), above, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases, waives and forever discharges the Defendant (together with its current and former parent corporations; each of its direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners, shareholders, officers, directors, employees, and affiliates; and the successors and assigns of any of them) from (a) any civil monetary claim the United States has or may have for the Covered Conduct under, without limitation, the False Claims Act, 31 U.S.C. §§ 3729-3733, and (b) any and all claims Relator has or may have arising from or related to the Covered Conduct and/or the allegations made in the Civil Action, excepting the Relator Discrimination Claims.

4. In consideration of the obligations of the Defendant in this Agreement conditioned upon the Defendant's full payment of the Settlement Amount, DOL and HUD agree to release and refrain from instituting, directing, or maintaining any administrative action against the Defendant (together with its current and former parent corporations; each of its direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners, shareholders, officers, directors, employees, and affiliates; and the successors and assigns of any of them) for the Covered Conduct, except as reserved in Paragraph 5, below.

5. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including the Defendant and the Relator) are the following claims of the United States:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon such obligations as are created by this Agreement;

f Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

g. Any liability for failure to deliver goods or services due; and

h. Any liability arising under Title 8, U.S. Code.

6. The United States represents and warrants that the Settlement Amount and all payments made by the defendant pursuant to this Agreement constitute the full and complete value to be received by the United States for, or pertaining to, the Covered Conduct. The United States further represents and warrants that no payments have been made by, or on behalf of The Integral/Doster Metro Gardens Construction a Joint Venture, the Integral Building Group, LLC, Doster Construction Company, Inc., or any other party to the Civil Action, in settlement of any claims arising from the Covered Conduct. The representations and warranties made herein are given as part of the consideration for the payments made pursuant to this Agreement.

7. Relator represents and warrants that the sums received by Relator pursuant to this Agreement constitute the full and complete value received, or to be received, by Relator for, or pertaining to, the Covered Conduct. Relator further represents that he has not received and will not receive, from any person or entity not a party to this Agreement, monies or other value pertaining to, or in settlement of, any claims arising from the Covered Conduct. The representations and warranties made herein are given as part of the consideration for the payments made pursuant to this Agreement.

8. Relator and his heirs, successors, attorneys, agents, and assigns agree not to object to this Agreement and agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B) and, conditioned upon receipt of Relator's share, Relator, for himself individually, and for his heirs, successors, agents, and assigns, fully and finally releases, waives, and forever discharges the United States, its officers, agents, and employees, from any claims arising from or relating to 31 U.S.C. § 3730; from any claims arising from the filing of the Civil Action; and from any other claims for a share of the Settlement Amount; and in full settlement of any claims Relator may have under this Agreement. This Agreement does not resolve or in any manner affect any claims the United States has or may have against the Relator arising under Title 26, U.S. Code (Internal Revenue Code), or any claims arising under this Agreement.

9. Conditioned upon receipt of the payment described in Paragraph 1.d, Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases and forever discharges the Defendant, its owners, shareholders, officers, agents, and employees, from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorney's fees and costs.

10. The Defendant waives and shall not assert any defenses the Defendant may have to any criminal prosecution or administrative action not released as part of this Agreement relating to the Covered Conduct that may be based in whole or in part on a

contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

11. The Defendant fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that the Defendant has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

12. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity.

13. The Defendant warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set



forth constitute a contemporaneous exchange for new value given to the Defendant, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity that the Defendant was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

14. Except as expressly provided to the contrary in this Agreement, each of the Parties shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. The Defendant represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

16. The Relator represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

17. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the Northern District of Alabama.

18. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

19. Upon receipt of the payment described in Paragraph 1.a. above, the United States shall file in the Civil Action a Notice of Intervention, and the United States and the Relator shall promptly sign and file a Joint Stipulation of Dismissal with prejudice of the Civil Action pursuant to the terms of the Agreement.

20. The individuals signing this Agreement on behalf of the Defendant represent and warrant that they are authorized by the Defendant to execute this Agreement. The individual signing this Agreement on behalf of Relator represents and warrants that he is authorized by Relator to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

21. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

22. This Agreement is binding on the Defendant's successors, transferees, heirs, and assigns.

23. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

24. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

25. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

# **EXHIBIT A**

### Promissory Note

1. For value received, and pursuant to the Settlement Agreement dated February 9, 2007 (the "Settlement Agreement"), Eagle Masonry Services, Inc. ("Eagle" or "Maker"), for itself and its successors and assigns, promises to pay to the United States of America or its assignee (the "Holder"), the full principal sum of \$50,000.00, together with interest accruing at the rates of seven (7) percent per annum as set forth below.

#### Schedule of Payments (including interest)

Payments	Date	Payment	Principal	Interest	Principal Balance
	Due				\$50,000.00
Down Payment	02/13/07	10,000.00	10,000.00		\$40,000.00
1	03/1/07	\$5,132.14	\$5,000.00	\$132.14	\$35,000.00
2	04/2/07	\$5,132.14	\$5,000.00	\$132.14	\$30,000.00
3	05/1/07	\$5,132.14	\$5,000.00	\$132.14	\$25,000.00
4	06/1/07	\$5,132.14	\$5,000.00	\$132.14	\$20,000.00
5	07/2/07	\$5,132.14	\$5,000.00	\$132.14	\$15,000.00
6	08/1/07	\$5,132.14	\$5,000.00	\$132.14	\$10,000.00
7	09/3/07	\$5,132.14	\$5,000.00	\$132.14	\$ 5,000.00
8	10/1/07	\$5,132.14	\$5,000.00	\$132.14	\$ 0.00
TOTAL			\$50,000.00	\$1,057.12	

2. Payments will be made as indicated in the Settlement Agreement. If there is any change in the method or instructions of payment, the Holder shall inform the Maker in writing at least 5 business days before payment is due.

3. This Note may be prepaid, in whole or in part, without penalty or premium. Partial payment does not alter the interest rate.

4. Maker is in default of this Note on the date of occurrence of any of the following events (Events of Default).

A. Maker's failure to pay any amount provided for in this Note within two business days of when such payment is due and payable; provided, however, that an Event of Default does not occur if because of events outside of Maker's control, the Holder does not receive the paid amount after transmission by Maker. Maker will make its best efforts to insure Holder's receipt of the paid amount.

B. If prior to making the full payment of the amount due under this Note, any case, proceeding, or other action is instituted;

- a. under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have any order for relief of debtors, or seeking to adjudicate Eagle as bankrupt or insolvent; or
- b. seeking appointment of a receiver, trustee, custodian or other similar official for Eagle or for all or any substantial part of Eagle's assets.

5. Upon the occurrence of an Event of Default, without further notice or presentment and demand by the United States, any outstanding balance secured shall become immediately due and payable and interest shall accrue on the default amount from the date of the Event of Default at 12 per cent per annum, compounded daily.

6. The United States retains any and all other rights and remedies it has or may have under law and equity, and may exercise those rights or remedies.

7. No failure or delay on the part of the United States to exercise any right or remedy shall operate as a waiver of the United States' rights. No partial or single exercise by the United States of any right or remedy shall operate as a waiver of the United States' rights.

8. Maker will pay the United States all reasonable costs of collection, including reasonable attorneys' fees and expenses.

9. Waiver by the Holder of any default by Maker, its successors, or assigns will not constitute a waiver of a subsequent default. Failure by the Holder to exercise any right, power, or privilege which it may have by reason of default will not preclude the exercise of such right, power, or privilege so long as such default remains uncured or if a subsequent default occurs.

10. This Note shall be governed and construed according to the laws of the United States of America.

11. Maker acknowledges that it is entering into this Note, freely, voluntarily

and with no degree of compulsion whatsoever.

12. Eagle shall provide the United States Attorney's Office for the Northern District of Alabama with sufficient evidence affirming that Eagle has: (a) has reviewed this Note and the Settlement Agreement; (b) consulted with legal counsel in connection with this matter; (c) is authorized to enter into and execute this Note; and (d) is authorized to take such further steps as necessary to carry out the terms of this Note.

IN WITNESS THEREOF, Maker intending to be legally bound hereby and so bind its successors and assigns, has caused this Note to be executed by its proper corporate officer and its corporate seal hereunto affixed, duly attested this \_\_\_\_, day of February, 2007.

EAGLE MASONRY SERVICES, INC.

by:

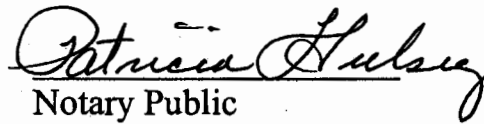
Frank Martinez  
President

February 08, 2007

Corporate Seal

Corporate Acknowledgment  
State of Georgia

On February 8, 2007, before me personally came Frank Martinez, to me known who, being duly sworn, did depose and state that (1) he resides in the states of Georgia, (2) is an officer of Eagle Masonry Services, Inc., the corporation described in and which executed the above instrument, (3) he knows the seal of Eagle Masonry Services, Inc., (4) the seal affixed to said instrument is such corporate seal, (4) that it was so affixed by order of the Board of Directors of Masonry Services, Inc., (5) and that he signed his name thereto by like order.



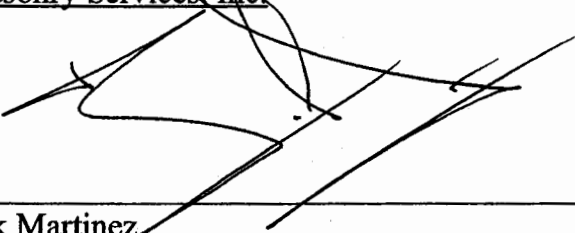
Notary Public  
State of Georgia  
My Commission Expires:



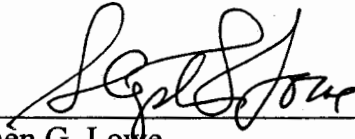


Eagle Masonry Services, Inc.

DATED: 02-08-07

BY:   
Frank Martinez  
President  
Eagle Masonry Services, Inc.

DATED: 2/8/07

BY:   
Stephen G. Lowe  
Shapiro Fussell Wedge & Martin, LLP  
One Midtown Plaza, Suite 1200  
1360 Peachtree Street  
Atlanta, GA 30309-3214  
  
Counsel for Eagle Masonry Services, Inc.

Bradley Barber

DATED: Feb, 8, 2007

BY: Bradley Barber  
Bradley Barber


DATED: 8 Feb 2007

BY: James R. Moncus, III  
Scott A. Powell  
Don McKenna  
James R. Moncus, III  
HARE, WYNN, NEWELL & NEWTON  
2025 Third Avenue North  
Suite 800  
Birmingham, Alabama 35203

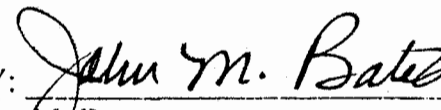
Counsel for Bradley Barber

THE UNITED STATES OF AMERICA

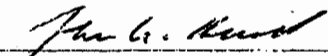
DATED: 2/9/07

BY:   
Lloyd C. Peebles, III  
Assistant United States Attorney  
Northern District of Alabama

DATED: 2-8-07

BY:   
John M. Bates  
Acting Deputy Regional Administrator  
Wage and Hour Division  
United States Department of Labor

DATED: 2-7-07

BY:   
John W. Herold  
Associate General Counsel For Program Enforcement  
United States Department of Housing and Urban  
Development